

## REMARKS

In response to the Office Action dated June 16, 2005, and in connection with the filing herewith of a Request for Continued Examination, Applicants respectfully request reconsideration based on the above claim amendment and the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance. Applicants further submit that no new matter is added by the present amendment.

Claims 1, 2, 4-9, 11-16, and 20 are pending in this application. Claims 1, 2, 4-9, 11-16, and 20 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement and the enablement requirement. Claims 1, 2, 7, and 20 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,097,721 ("Goody") in view of U.S. Patent No. 6,678,741 ("Northcutt"). Claims 4-6 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Goody and Northcutt and further in view of U.S. Patent No. 6,175,552 ("Parry"). Claims 8, 9, 11, and 12 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Goody and Northcutt and further in view of "Prospects for Fiber to the Home (FTTH)" ("Reddy"). Claims 13 and 15 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Goody, Northcutt, and Reddy and further in view of Parry.

### *Interview Summary*

Applicants' attorney, Kenneth R. Eiferman, and the Examiner discussed the amendments herein in a telephonic interview on June 29, 2004. The Examiner stated the amendments herein would likely require further search and consideration. The Examiner did note, however, that the amendments herein appear to more clearly describe the claimed invention.

### *Rejections Under 35 U.S.C. § 112*

Claims 1, 2, 4-9, 11-16, and 20 are pending in this application. Claims 1, 2, 4-9, 11-16, and 20 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement and the enablement requirement. To expedite prosecution and to more clearly describe the claimed invention, Applicants have

deleted the portions of the claims which allegedly fail to satisfy the requirements of 35 U.S.C. § 112.

### *The Claimed Invention*

The claimed invention is directed to updating software in a fiber optic network, and, more specifically, to an automated process for updating software in a fast and efficient manner. In particular, the claims recite an organized distribution scheme that involves identifying software on a single multiplexor and any network units connected to the multiplexor. The software on the single multiplexor and its connected network units is either updated (see claims 1 and 20) or synchronized (see claim 8) before moving on to any other multiplexors and other connected units. Employing this organized distribution scheme ensures that no network units will be left with software that is outdated or out of synch with the multiplexor to which they are connected.

### *Rejections Under 35 U.S.C. § 103(a)*

1. Claims 1, 2, 7, and 20 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,097,721 (“Goody”) in view of U.S. Patent No. 6,678,741 (“Northcutt”). Applicants respectfully disagree.

The Examiner cites Northcutt as teaching the process of updating software. ***However, Northcutt discloses updating software using a non-organized device-by-device approach.*** (See Northcutt, Col. 5, lines 30-49 and Fig. 3). For example, in the non-organized Northcutt method, a first mutliplexor could be updated and then a second multiplexor could be updated without first updating or synchronizing the network units connected to the first multiplexor. This could result in a long gap in between the time when the first mutliplexor is updated and the time when the network units connected to the first mutliplexor are updated, which means that the first multiplexor will be incompatible with its connected network units for a long time period. The non-organized Northcutt method could also result in the network units connected to the first mutliplexor entirely missing the update and therefore having outdated software until the next update occurs.

Northcutt does not teach or suggest the following limitations from independent claims 1 and 20:

“determining whether there is another network unit connected to the multiplexor over a fiber optic connection;  
if so, then returning to step (d); and  
if not, then determining whether there is another multiplexor in the fiber optic network and, if so, repeating the method for the other multiplexor”

As described above, these limitations require an organized distribution scheme in which a multiplexor and its connected network elements are updated prior to moving on to any other multiplexors, which is not taught or suggested by Northcutt. Accordingly, Applicants respectfully submit that independent claims 1 and 20 are patentable over the cited references. Applicants further submit that dependent claims 2 and 7 are patentable at least by reason of their dependency.

2. Claims 4-6 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Goody and Northcutt and further in view of U.S. Patent No. 6,175,552 (“Parry”). Applicants respectfully disagree and submit that dependent claims 4-6 are patentable at least by reason of their dependency.

3. Claims 8, 9, 11, and 12 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Goody and Northcutt and further in view of “Prospects for Fiber to the Home (FTTH)” (“Reddy”). Applicants respectfully disagree and submit that independent claim 8 is patentable for the same reasons discussed above in section 1 with respect to independent claims 1 and 20. Applicants further submit that dependent claims 9, 11, and 12 are patentable at least by reason of their dependency.

4. Claims 13 and 15 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Goody, Northcutt, and Reddy and further in view of Parry. Applicants respectfully disagree and submit that dependent claims 13 and 15 are patentable at least by

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**AMENDMENTS AND ARGUMENTS IN SUPPORT  
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PURSUANT TO 37 CFR § 1.114**

reason of their dependency. Accordingly, reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejections are respectfully requested.

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**CONCLUSION**

In view of the above remarks, Applicant respectfully submits that the present application is in condition for allowance. Reconsideration of the application is respectfully requested.

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